

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

Kevin JONES,

Plaintiff,

v.

Bill MASSEE, et. al,

Defendants.

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CIVIL ACTION NO. 5:10-CV-293 (MTT)

ORDER

This matter is before the Court on the Recommendation to Dismiss (the “Recommendation”) (Doc. 8) of United States Magistrate Judge Claude W. Hicks, Jr. The Magistrate Judge, having reviewed the Plaintiff’s complaint (the “Complaint”) (Doc. 1) pursuant to 28 U.S.C. § 1915A(a) & (b), recommends dismissing the Plaintiff’s request for injunctive relief because the Plaintiff has been transferred to another prison. The Magistrate Judge also recommends dismissing Defendants Sheriff Richard Chatman,¹ Captain Wesley Nunn, and Sheriff Bill Massee because the Plaintiff failed to allege a causal connection between their conduct and an alleged constitutional violation. The Magistrate Judge also held that the Plaintiff may not bring a 42 U.S.C. § 1983 claim against Defendant Chatman based on a theory of *respondeat superior* or supervisor liability. The Plaintiff filed an objection to the Recommendation (the “Objection”) (Doc. 12). Pursuant to 28 U.S.C. § 636(b)(1), the Court has thoroughly considered the Objection and has made a de novo determination of the portions of the Recommendation to which the Plaintiff objects.

¹ The Plaintiff listed the Defendant’s name as “Chapman” in the Complaint.

The Court accepts and adopts the findings, conclusions and recommendations of the Magistrate Judge with respect to Defendants Massee and Chatman and rejects the Recommendation with respect to Defendant Nunn. The Complaint alleges Defendant Jeff Petty participated in a constitutional violation December 14, 2009, by discouraging Officer Morris Jackson from making a dietary accommodation for the Plaintiff. The Plaintiff filed a Motion to Amend the Complaint (Doc. 13), replacing Defendant Petty with Nunn in the alleged December 14 incident.² The Magistrate Judge issued the Recommendation before the Motion to Amend the Complaint was granted and consequently the Magistrate Judge did not find a causal connection between Nunn and an alleged constitutional violation. The Court cannot dismiss the claims against Nunn pursuant to 28 U.S.C. § 1915A(a) & (b) because the record now alleges a causal connection between the alleged constitutional violation and Nunn.

The request for injunctive relief and the claims against Defendants Chatman and Massee are **DISMISSED**. The claims against Defendants Nunn, Jeff Petty, Montien R. Duncan, Officer Chance Allen, and Officer Davison shall remain pending.

SO ORDERED, this the 20th day of October, 2010.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT

² The Motion to Amend the Complaint is the same document as the Objection. The Magistrate Judge granted the Motion to Amend the Complaint October 14, 2010 (Doc. 14).